

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
BRIAN J. YUSKO,) CASE NO. 05-64105 JPK
) Chapter 13
Debtor.)

ORDER DENYING MOTION TO MODIFY PLAN, POST-CONFIRMATION

On July 7, 2006, the debtor, by counsel David Dabertin, filed a document entitled "Motion to Modify Plan, Post-Confirmation".

The prayer for relief states that the debtor requests "an Order modifying the Debtor's plan to allow the debtor to pro rate future refunds to pay the debtor's living expenses thereby not requiring the Debtor to contribute future tax refunds toward plan payments". Exactly what this prayer for relief means in relation to the specific provisions of the debtor's confirmed plan is not clear to the Court. Fed.R.Bankr.P. 9013 requires that requests for an order, by means of a motion, "shall state with particularity the grounds therefore": this motion fails to comply with that rule.

The Notice purportedly provided with respect to this motion pursuant to N.D.Ind.L.B.R. B-2002-2 fails to comply with the requirements of that rule. The notice was apparently prepared in May of 2006, and an attempt has been made to excise the word "May" from the notice and to insert a purported date which appears to be July 7, 2006 into the document. Perhaps counsel for the debtor deems this document to be an adequate formal format to submit to a Federal Court: The Court does not. Moreover, the form of notice utilized does not substantially comply with the requirements of N.D.Ind.L.B.R. B-2002-2(c). It is time for debtor's counsel to take the simple step of duplicating either Local Bankruptcy Form 3a (LBF-3a) or Local Bankruptcy Form 3b (LBF-3b) in his form directory, and to utilize one of those forms as his base for providing notice pursuant to N.D.Ind.L.B.R. B-2002-2.

IT IS ORDERED that the foregoing motion is denied, without prejudice to the filing of a

motion which complies with the provisions of this order, and otherwise with applicable law and rules, including the utilization of either Local Bankruptcy Form 3a (LBF-3a) or Local Bankruptcy Form 3b (LBF-3b) as the form of notice provided to all creditors and parties-in-interest in this case.

Dated at Hammond, Indiana on August 16, 2006.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee